

JOINT CONFERENCE COMMITTEE REPORT**on Senate Bill No. 1361**

We, the conferees, appointed by the respective bodies to consider and report upon the disagreeing vote on **Senate Bill No. 1361**, report as follows:

A. We recommend that the House Amendment in the Nature of a Substitute (23107021D) be rejected.

B. We recommend that the attached Amendment in the Nature of a Substitute (23107550D) be accepted to resolve the matter under disagreement.

Respectfully submitted,

Senator Joseph D. Morrissey (signed)

Senator Barbara A. Favola (signed)

Senator Thomas K. Norment, Jr. (signed)

Conferees on the part of the Senate

Delegate Wren M. Williams (signed)

Delegate Robert B. Bell (signed)

Delegate Patrick A. Hope (signed)

Conferees on the part of the House

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SENATE BILL NO. 1361**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the Joint Conference Committee

on _____)

(Patron Prior to Substitute--Senator Morrissey)

1 A BILL to amend and reenact §§ 2.2-3703, 53.1-136, 53.1-154, and 53.1-155 of
2 the Code of Virginia, relating to Parole Board; eligibility determinations;
3 reports.

4
5 **Be it enacted by the General Assembly of Virginia:**

6 **1. That §§ 2.2-3703, 53.1-136, 53.1-154, and 53.1-155 of the Code of Virginia**
7 **are amended and reenacted as follows:**

8 **§ 2.2-3703. Public bodies and records to which chapter inapplicable;**
9 **voter registration and election records; access by persons incarcerated in a**
10 **state, local, or federal correctional facility.**

11 A. The provisions of this chapter shall not apply to:

12 1. ~~The Virginia Parole Board (the Board), except that (i) information from~~
13 ~~the Board providing the number of inmates considered by the Board for~~
14 ~~discretionary parole, the number of inmates granted or denied parole, and the~~
15 ~~number of parolees returned to the custody of the Department of Corrections solely~~
16 ~~as a result of a determination by the Board of a violation of parole shall be open to~~
17 ~~inspection and available for release, on a monthly basis, as provided by § 2.2-3704;~~
18 ~~(ii) all guidance documents, as defined in § 2.2-4101, shall be public records and~~
19 ~~subject to the provisions of this chapter; (iii) all records concerning the finances of~~
20 ~~the Board shall be public records and subject to the provisions of this chapter; and~~
21 ~~(iv) individual Board member votes shall be public records and subject to the~~

provisions of this chapter. The information required by clause (i) shall be furnished by offense, sex, race, age of the inmate, and the locality in which the conviction was obtained, upon the request of the party seeking the information. The information required by clause (ii) shall include all documents establishing the policy of the Board or any change in or clarification of such policy with respect to grant, denial, deferral, revocation, or supervision of parole or geriatric release or the process for consideration thereof, and shall be clearly and conspicuously posted on the Board's website. However, such information shall not include any portion of any document reflecting the application of any policy or policy change or clarification of such policy to an individual inmate;

2. Petit juries and grand juries;

3. 2. Family assessment and planning teams established pursuant to § 2.2-5207;

4. 3. Sexual assault response teams established pursuant to § 15.2-1627.4, except that records relating to (i) protocols and policies of the sexual assault response team and (ii) guidelines for the community's response established by the sexual assault response team shall be public records and subject to the provisions of this chapter;

5. 4. Multidisciplinary child sexual abuse response teams established pursuant to § 15.2-1627.5;

6. 5. The Virginia State Crime Commission; and

7. 6. The records maintained by the clerks of the courts of record, as defined in § 1-212, for which clerks are custodians under § 17.1-242, and courts not of record, as defined in § 16.1-69.5, for which clerks are custodians under § 16.1-69.54, including those transferred for storage, maintenance, or archiving. Such records shall be requested in accordance with the provisions of §§ 16.1-

69.54:1 and 17.1-208, as appropriate. However, other records maintained by the clerks of such courts shall be public records and subject to the provisions of this chapter.

B. Public access to voter registration and election records shall be governed by the provisions of Title 24.2 and this chapter. The provisions of Title 24.2 shall be controlling in the event of any conflict.

C. No provision of this chapter or Chapter 21 (§ 30-178 et seq.) of Title 30 shall be construed to afford any rights to any person (i) incarcerated in a state, local or federal correctional facility, whether or not such facility is (a) located in the Commonwealth or (b) operated pursuant to the Corrections Private Management Act (§ 53.1-261 et seq.) or (ii) civilly committed pursuant to the Sexually Violent Predators Act (§ 37.2-900 et seq.). However, this subsection shall not be construed to prevent such persons from exercising their constitutionally protected rights, including, but not limited to, their right to call for evidence in their favor in a criminal prosecution.

§ 53.1-136. Powers and duties of Board; notice of release of certain inmates.

In addition to the other powers and duties imposed upon the Board by this article, the Board shall:

1. Adopt, subject to approval by the Governor, general rules governing the granting of parole and eligibility requirements, which shall be published and posted for public review. Such eligibility rules shall require consideration of the prisoner's demonstrated rehabilitation, economic and educational development, commitment to prosocial behavior, and community and family supports;

2. Adopt, subject to approval by the Governor, rules providing for the granting of parole to those prisoners who are eligible for parole pursuant to § 53.1-

74 165.1 on the basis of demonstrated maturity and rehabilitation and the lesser
75 culpability of juvenile offenders;

76 3. a. Release on parole for such time and upon such terms and conditions as
77 the Board shall prescribe, persons convicted of felonies and confined under the
78 laws of the Commonwealth in any correctional facility in Virginia when those
79 persons become eligible and are found suitable for parole, according to those rules
80 adopted pursuant to subdivisions 1 and 2;

81 b. Establish the conditions of postrelease supervision authorized pursuant to
82 § 18.2-10 and subsection A of § 19.2-295.2;

83 c. Notify the Department of Corrections of its decision to grant
84 discretionary parole or conditional release to an inmate. The Department of
85 Corrections shall set the release date for such inmate no sooner than 30 business
86 days from the date that the Department of Corrections receives such notification
87 from the Chairman of the Board, except that the Department of Corrections may
88 set an earlier release date in the case of an inmate granted conditional release
89 pursuant to § 53.1-40.02. In the case of an inmate granted parole who was
90 convicted of a felony and sentenced to a term of 10 or more years, or an inmate
91 granted conditional release, the Board shall notify the attorney for the
92 Commonwealth in the jurisdiction where the inmate was sentenced (i) by
93 electronic means at least 21 business days prior to such inmate's release that such
94 inmate has been granted discretionary parole or conditional release pursuant to §
95 53.1-40.01 or 53.1-40.02 or (ii) by telephone or other electronic means prior to
96 such inmate's release that such inmate has been granted conditional release
97 pursuant to § 53.1-40.02 where death is imminent. Nothing in this section shall be
98 construed to alter the obligations of the Board under § 53.1-155 for investigation
99 prior to release on discretionary parole;

d. Provide that in any case where a person who is released on parole or postrelease supervision has been committed to the Department of Behavioral Health and Developmental Services under the provisions of Chapter 9 (§ 37.2-900 et seq.) of Title 37.2 the conditions of his parole or postrelease supervision shall include the requirement that the person comply with all conditions given him by the Department of Behavioral Health and Developmental Services and that he follow all of the terms of his treatment plan;

4. Revoke parole and any period of postrelease and order the reincarceration of any parolee or felon serving a period of postrelease supervision or impose a condition of participation in any component of the Statewide Community-Based Corrections System for State-Responsible Offenders (§ 53.1-67.2 et seq.) on any eligible parolee, when, in the judgment of the Board, he has violated the conditions of his parole or postrelease supervision or is otherwise unfit to be on parole or on postrelease supervision;

5. Issue final discharges to persons released by the Board on parole when the Board is of the opinion that the discharge of the parolee will not be incompatible with the welfare of such person or of society. Final discharges granted prior to the expiration of a period of parole shall be granted only upon approval by a majority of Board members. The Board shall publish an annual report regarding final discharges issued by the Board during the previous 12 months. The report shall include (i) the name of each prisoner granted final discharge, (ii) the offense of which the prisoner was convicted, (iii) the jurisdiction in which such offense was committed, (iv) the length of the prisoner's sentence and the date such sentence was imposed, (v) the amount of time the prisoner has been on parole or postrelease supervision in the community, (vi) the basis for the final discharge, and (vii) the vote of each Board member;

126 6. Make investigations and reports with respect to any commutation of
127 sentence, pardon, reprieve or remission of fine, or penalty when requested by the
128 Governor;

129 7. Publish a statement by the fifteenth day of each month regarding the
130 ~~action~~ actions taken by the Board on the parole of prisoners ~~within 30 days of such~~
131 ~~action~~ during the prior month. The statement shall list (i) the name of each prisoner
132 considered for parole, (ii) the offense of which the prisoner was convicted, (iii) the
133 jurisdiction in which such offense was committed, (iv) the length of the prisoner's
134 sentence and the date such sentence was imposed, (v) the amount of time the
135 prisoner has served, (vi) whether the prisoner was granted or denied parole, ~~and~~
136 (vii) ~~the basis~~ individualized reasons for the grant or denial of parole, and (viii) the
137 final vote and the names of the Board members who voted in favor of granting
138 parole and those who voted against. However, in the case of a prisoner granted
139 parole, the information set forth in clauses (i) through ~~(vii)~~ (viii) regarding such
140 prisoner shall be included in the statement published in the month immediately
141 succeeding the month in which notification of the decision to grant parole was
142 given to the attorney for the Commonwealth and any victims; ~~and~~

143 8. Publish an annual report regarding actions taken by the Board on the
144 parole of prisoners during the prior year. Such report shall contain each monthly
145 statement published by the Board pursuant to subdivision 7 and a summary that
146 identifies (i) the total number of prisoners considered for parole, (ii) the number of
147 persons granted parole, (iii) the number of persons denied parole, (iv) the most
148 common reasons for which parole was granted or denied, and (v) the extent to
149 which the Board relied on prisoner participation in prison programs when granting
150 parole;

151 9. Ensure that each person eligible for parole receives a timely and

152 thorough review of his suitability for release on parole, including a review of any
153 relevant post-sentencing information. If parole is denied, the basis for the denial of
154 parole shall be in writing and shall give specific, individualized reasons for such
155 denial to such inmate; and

156 10. Convene a public meeting, either in person or via video conference,
157 when conducting the final deliberation and vote regarding whether the Board will
158 grant parole to a prisoner. The prisoner being considered for parole or his attorney
159 shall be permitted to attend such meeting either, in the Board's discretion, in person
160 or via video conference. The victim shall be permitted to attend and participate in
161 such meeting either, in the Board's discretion, in person or via video or phone
162 conference or to provide written or recorded testimony. No decision to grant
163 discretionary parole shall be made by the Board unless such decision was
164 discussed and debated at a meeting at which a majority of the Board members were
165 present. Whether the Board grants or denies discretionary parole to an inmate, each
166 Board member shall identify his reasoning for such decision at the time such
167 member's vote is cast.

168 **§ 53.1-154. Times at which Virginia Parole Board to review cases.**

169 The Virginia Parole Board shall by regulation divide each calendar year
170 into such equal parts as it may deem appropriate to the efficient administration of
171 the parole system. Unless there be reasonable cause for extension of the time
172 within which to review and decide a case, the Board shall review and decide the
173 case of each prisoner no later than that part of the calendar year in which he
174 becomes eligible for parole, and at least annually thereafter, until he is released on
175 parole or discharged, except that upon any such review the Board may schedule the
176 next review as much as three years thereafter, provided there are ten years or more
177 or life imprisonment remaining on the sentence in such case. Such reviews shall

178 include a live interview of the prisoner by a Board member. Such interviews may
179 be conducted in person or by videoconference at the discretion of the Board.
180 Absent imminent death of the prisoner or other extraordinary circumstances, which
181 shall be documented by the Board in the prisoner's file, the Board shall not grant
182 parole to any prisoner who has not received a live interview within the prior
183 calendar year. Notwithstanding any other provision of this article, in the case of a
184 parole revocation, if such person is otherwise eligible for parole, the Board shall
185 review and decide his case no later than that part of the calendar year one year
186 subsequent to the part of the calendar year in which he was returned to a facility as
187 provided in § 53.1-161. Thereafter, his case shall be reviewed as specified in this
188 section. The Board, in addition, may review the case of any prisoner eligible for
189 parole at any other time and may review the case of any prisoner prior to that part
190 of the year otherwise specified. In the discretion of the Board, interviews may be
191 conducted by the Board or its representatives and may be either public or private.

192 **§ 53.1-155. Investigation prior to release; transition assistance.**

193 A. No person shall be released on parole by the Board until a thorough
194 investigation has been made into the prisoner's history, physical and mental
195 condition and character, and his conduct, employment, and attitude while in prison.
196 All information collected through such investigation shall be made available to the
197 prisoner or his attorney, provided that (i) neither the prisoner nor his attorney shall
198 further disclose, reproduce, copy, or disseminate such information in any way and
199 (ii) the Board shall redact all personal information of the victim. The Board shall
200 also determine that his release on parole will not be incompatible with the interests
201 of society or of the prisoner. The provisions of this section shall not be applicable
202 to persons released on parole pursuant to § 53.1-159.

203 B. An investigation conducted pursuant to this section shall include

notification that a victim may submit to the Virginia Parole Board evidence concerning the impact that the release of the prisoner will have on such victim. This notification shall be sent to the last address provided to the Board by any victim of a crime for which the prisoner was incarcerated. If additional victim research is necessary, electronic notification shall be sent to the attorney for the Commonwealth and the director of the victim/witness program, if one exists, of the jurisdiction in which the offense occurred. The Board shall endeavor diligently to contact the victim prior to making any decision to release any inmate on discretionary parole. The victim of a crime for which the prisoner is incarcerated may present to the Board oral, including by virtual means, or written testimony concerning the impact that the release of the prisoner will have on the victim, and the Board shall consider such testimony in its review. Once testimony is submitted by a victim, such testimony shall remain in the prisoner's parole file and shall be considered by the Board at every parole review. The victim of a crime for which the prisoner is incarcerated may submit a request in writing or by electronic means to the Board to be notified of (i) the prisoner's parole eligibility date and mandatory release date as determined by the Department of Corrections, (ii) any parole-related interview dates, and (iii) the Board's decision regarding parole for the prisoner. The victim may request that the Board only notify the victim if, following its review, the Board is inclined to grant parole to the prisoner, in which case the victim shall have ~~forty-five~~ 45 days to present written or oral testimony for the Board's consideration. If the victim has requested to be notified only if the Board is inclined to grant parole and no testimony, either written or oral, is received from the victim within at least ~~forty-five~~ 45 days of the date of the Board's notification, the Board shall render its decision based on information available to it in accordance with subsection A. The definition of victim in § 19.2-11.01 shall apply

to this section.

Although any information presented by the victim of a crime for which the prisoner is incarcerated shall be retained in the prisoner's parole file and considered by the Board, such information shall not infringe on the Board's authority to exercise its decision-making authority.

C. Notwithstanding the provisions of subsection A, if a physical or mental examination of a prisoner eligible for parole has been conducted within the last ~~twelve~~ 12 months, and the prisoner has not required medical or psychiatric treatment within a like period while incarcerated, the prisoner may be released on parole by the Parole Board directly from a local correctional facility.

The Department shall offer each prisoner to be released on parole or under mandatory release who has been sentenced to serve a term of imprisonment of at least three years the opportunity to participate in a transition program within six months of such prisoner's projected or mandatory release date. The program shall include advice for job training opportunities, recommendations for living a law-abiding life, and financial literacy information. The Secretary of Public Safety and Homeland Security shall prescribe guidelines to govern these programs.

2. That the provisions of this act shall become effective on July 1, 2024.

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